

UNITED STATES OF AMERICA	*	CRIMINAL NO.
VERSUS	*	SECTION:
DR. GREGORY KHOURY	*	
	*	*

If this matter were to proceed to trial, the government would prove the following facts through competent evidence:

Shirley Patterson, a Division Chief for the United States Office of Personnel Management, Center for Retirement and Insurance Services (OPM), would testify that OPM administered the Federal Employees Health Benefit Plan (FEHBP), a federally funded health benefit program provided by the federal government for federal employees, retirees, and their

eligible spouses and dependent children. OPM contracted with Blue Cross/Blue Shield of Louisiana (BCBSLA) to provide health insurance benefits for eligible persons and to process and pay health care claims on behalf of FEHBP.

_____James Gogue, a Health Care Fraud Specialist with Tricare, will testify that Tricare was a federally funded health benefit program provided by the federal government for military personnel and their families.

Representatives of Medicare, BCBSLA and Tricare would testify that, to bill as a Provider for their respective agencies, Dr. Gregory Khoury agreed to abide by all rules and regulations prescribed by their individual agencies and to agree to use Current Procedural Terminology (CPT) Codes on claims for services rendered to beneficiaries.

CPT Codes were enacted and published annually by the American Medical Association (AMA) and were generally five-digit numerical codes assigned to medical procedures performed by health care providers. These codes were described in the CPT manual as a “systematic listing and coding of procedures performed by physicians.” The CPT code books for the years 2003, 2004 and 2005 contained codes for Evaluation and Management (E&M) services provided by health care professionals. These types of codes were differentiated by the complexity of the service, the severity of the illness or injury and the average amount of time generally required to perform the service by the health care professional. As the service became more complex and/or more time was associated with the service, the reimbursement increased.

Naquin, Patterson and Gogue would testify that for each of the respective programs Dr. Gregory Khoury made claims for reimbursement for services allegedly rendered to qualified patients under each health care benefit plan. Each claim submitted by Dr. Khoury disclosed the patient's name and a unique patient identification number, a description of the procedure or service performed using a CPT billing code that accurately described the service rendered, the date of service, the amount billed and his provider number for whichever health care program or plan was billed. These witnesses would also testify that Dr. Khoury submitted both electronic and hard copy "HCFA/CMS Form 1500" claim forms, which form is the recognized standard industry claim form. These claim forms contained the date and place of service, the CPT code and the physician who rendered the service.

Naquin, Patterson and Gogue, as well as former employees of Dr. Khoury's medical practice such as Betty Phelan, Giovanna Joseph Pringle, Melanie Hidalgo and Laura White, would testify that Dr. Khoury primarily billed the three health care programs for the following services: CPT Codes 99215, 99354 and 99355. These codes remained virtually unchanged in the 2003, 2004, 2005 and 2006 CPT Manuals. The CPT Manual defines these codes as follows:

CPT Code 99354 - Prolonged physician service in the office or other outpatient setting requiring direct (face-to-face) patient contact beyond the usual service; first hour (List separately in addition to code for office or other outpatient Evaluation and Management service) (Use 99354 in conjunction with codes 99201 – 99215, 99241 – 99254, 99301 – 99350).

CPT Code 99355 – each additional 30 minutes (List separately in addition to code for prolonged physician service) (Use 99355 in conjunction with code 99354)

CPT Code 99215 – Office or other outpatient visit for the evaluation and management of an established patient, which requires at least two of these three components: a comprehensive history, a comprehensive exam, and medical decision making of high complexity . . . usually, the presenting problem(s) are of moderate to high severity. Physicians typically spend 40 minutes face-to-face with the patient and/or family.

CPT Code 99215 was used to report E&M services provided in a physician's office to an established patient. In instances where 99215 was used by a physician, the patient's presenting problems are of moderate to high severity and the physician typically spends 40 minutes face-to-face with the patient and/or family. CPT E&M Codes 99354 and 99355 were used when a physician provided prolonged services involving direct (face-to-face) patient contact that was beyond the usual service in an office setting. These codes were used to report the total duration of face-to-face time spent by a physician with a patient on a given date providing prolonged services.

Records from Medicare, BCBSLA and Tricare, as well as documents recovered in a search of Dr. Gregory Khoury's medical office located at 2600 Belle Chasse Highway, Suite 205, Gretna, Louisiana on June 7, 2006, would show that Dr. Khoury was certified by Medicare, FEHBP and Tricare to provide services to beneficiaries of each program. Included within these documents was a Medicare provider enrollment certification statement setting forth the following condition for eligibility, that the provider "will not knowingly present or cause to be presented a

false or fraudulent claim for payment by Medicare, and will not submit claims with deliberate ignorance or reckless disregard for their truth or falsity.” Patient medical records of Medicare, BCBSLA and Tricare beneficiaries were also seized.

Patients of Dr. Khoury would testify, and records seized would corroborate, that on numerous occasions Dr. Khoury billed health care plans for CPT Codes 99215, 99354 and 99355 when the patients were not present in the office. A review of patients’ medical records and comparisons to billing records indicated that on these occasions, Dr. Khoury discussed the absent patient’s condition with a family member or other interested person. In these instances, Dr. Khoury submitted bills for CPT Codes 99215, 99354 and 99355 as if those services had been rendered to the absent patient and also submitted claims for medical services he allegedly provided to the actual person to whom he spoke. Betty Phelan and Giovanna Joseph would testify that Dr. Khoury instructed his staff that services could be billed as a continuation of services that were being rendered to the patients when they were present in the office. Dr. Khoury told Betty Phelan and the other office staff that he could bill comprehensive physician office visits (99215) and extensions (99354 and 99355) for patients who were not present in the office. Giovanna Joseph, Dr. Khoury’s office manager, told Dr. Khoury that billing in this fashion was not right, yet Khoury continued to bill for these CPT E&M Codes that could not have been rendered because the patients were not in the office. The medical records seized during the course of the search corroborate these findings, as the records document on numerous occasions that patients was

not present in the office, but Khoury discussed the patient with a family member or other concerned person, then billed as if he had rendered services to the absent patient.

Special Agent Artie Delauneville would testify that he reviewed and compared Dr. Khoury's patient records against the billing records of Medicare and Tricare. S.A. Delauneville would illustrate the numerous instances where patients GeTo, MaTo, BrTo and TyTo were billed for CPT E&M Codes 99215, 99354 and 99355 when the medical records indicated that the patients was not present in the office. His review would show that Dr. Khoury or a staff member had a conversation with another family member or third person about the patient. Testimony from the actual patients and other documentation would show that these codes were billed on days when the patient was out of town or in the hospital for other medical procedures and were not in Dr. Khoury's office on the date of service billed.

Documents obtained from other sources would also show that, for two particular patients who resided outside of Louisiana, Dr. Khoury billed for CPT E&M Codes that required direct face-to-face. Documents obtained from an assisted living facility in Georgia would establish that Medicare beneficiary MoPe was present in her residence in Georgia on dates when Dr. Khoury billed for CPT E&M Codes 99215, 99354 and 99355 indicating that services were rendered in Dr. Khoury's Gretna office. The patient's medical file seized during the search documented that on these occasions Dr. Khoury or members of his staff had no personal contact with MoPe, but had some type of conversation with MoPe's family or friends. Employment documents related to

FEHBP patient MeHu would also show numerous instances where MeHu was working in Georgia on dates when Dr. Khoury billed for CPT E&M codes 99215, 99354 and 99355 for services allegedly rendered for MeHu. Me Hu's medical file seized from Dr. Khoury's office confirmed that MeHu was not present in Louisiana on these dates, but that Dr. Khoury or members of his staff either had conversations with family or friends in person or by telephone or spoke with MeHu by telephone.

The following chart details the patients whose medical records, other documentation and/or testimony indicate that the applicable health care program was billed for CPT E&M Codes 99215, 99354 and 99355 on dates when the patients were not present in Dr. Khoury's office. The chart lists the patient's name by first and last initial, affiliated health care program that was charged for the services not rendered, and the total amount paid by the health care program for these proxy charges:

PATIENT NAME	PROGRAM	AMOUNT PAID
GeTo	Medicare	\$11,676.35
MaTo	Medicare	\$ 8,526.91
BrTo	Tricare	\$ 16,942.80
TyTo	Tricare	\$ 25,269.19
MoPe	Medicare	\$ 16,093.36
MeHu	FEHBP	\$ 22,780.60
	TOTAL	\$101,289.21

The government would introduce into evidence financial and billing information provided by Medicare, Tricare and FEHBP establishing that Dr. Gregory Khoury received approximately \$101,289.21 for billings submitted to each health care program for CPT E&M

Codes 99215, 99354 and 99355 for services allegedly rendered to patients when the patient was not present in Dr. Khoury's office.

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